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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,553	06/25/2003	Joseph P. Kosir	FFRZ 2 00218	5476

7590 08/27/2004

Jay F. Moldovanji  
Fay, Sharpe, Fagan,  
Minnich & McKee, LLP  
1100 Superior Avenue, 7th Floor  
Cleveland, OH 44114-2518

EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/603,553

Applicant(s)

KOSIR, JOSEPH P. 

Examiner

Jennifer E. Novosad

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06-25-03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Abstract*

Applicant is reminded of the proper language and format for an abstract of the disclosure. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

### *Claim Objections*

Claim 20 is objected to because it appears that "a" in line 1 should be deleted.  
Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,942,644 (Rowley '644).

Rowley '644 discloses a strip (see Figure 6) comprising a tab (27 and 35) *capable of being for mounting the strip to a support member* whereby the tab comprising a strap (27) and a head (35) located at a distal end of the strap (27); the strip having a body portion having an

Art Unit: 3634

aperture (60) for receiving the strap (27) therethrough whereby the body portion is connected with the tab; the aperture having a length (from 64 to the opposite end) that is greater than a maximum transverse width of the head; the head (35) has a transverse width greater than a transverse width of the aperture at a widest point which is closest to the strap (27), the body portion defines an engagement surface having a width less than the transverse width of the head adjacent the engagement surface, the aperture (60) defining a triangular portion and the engagement surface is a side thereof and a slit, i.e., narrow portion, extends from an apex of the triangular portion in a direction away from the strap (27) and in a direction of the longitudinal axis of the strap, whereby the slit has a maximum transverse width less than a transverse width of the strap (27), the engagement surface is perpendicular to the axial length of the aperture and defines an end of the aperture closest to the strap (27); the maximum transverse width of the aperture (60) is intermediate the transverse width of the strap (27) and the head (35); the strip having at least one engagement means (66 or other 60 in Figure 7) *capable of being for supporting a package* which comprises at least one finger (in 60 in Figure 7, the finger would be defined by the structure above the cut at 60) defined by a cut line.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3634

Claims 1-10, 12, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,869,007 (Fast '007) in view of (Rowley '644).

Fast '007 discloses a merchandising strip comprising a planar body (12) with an aperture (at 28); at least one finger (14) associated with the body portion for supporting a package (16) which defines a cut line in the body portion; a tab for mounting the strip to an associated member (32) including a strap (24) having a first end extending from the body portion (12, 22) and a head (26) is located at a second end of the strap (24) which is shaped to be received within the aperture (28); the head defines shoulder for engaging an adjacent region of the body portion when the head (26) is received in the aperture. Fast '007 is also considered to disclose the structure capable of performing the method steps of providing a strip having a body portion and an elongate strap connected therewith whereby the body portion defines an aperture, encircling a portion (32) of the support member with the strap (24), inserting the head (26) through the aperture, and releasably supporting a package (16) on the strip.

The claims differ from fast '007 in requiring: (a) the structure of the head to have a transverse width greater than a transverse width of the aperture at a widest point which is closest to the strap (claim 1), the body portion to define an engagement surface having a width less than the transverse width of the head adjacent the engagement surface (claim 3), the aperture defining a triangular portion and the engagement surface is a side thereof (claim 4) and a slit extending from an apex of the triangular portion (claim 7) in a direction away from the strap (claim 8) whereby the slit has a maximum transverse width less than a transverse width of the strap (claim 10), the aperture to have an axial length greater than the transverse width of the aperture (claim 5), the engagement surface to be perpendicular to the axial length of the aperture (claim 6) and

Art Unit: 3634

defines an end of the aperture closest to the strap (claim 9); (b) the method steps of inserting the head through the aperture so that the width is oriented parallel to the longitudinal axis of the strip with the maximum transverse width of the head is greater than that of the aperture and then rotating the head such that the transverse width is generally perpendicular to the axis of the strip (claim 19) by positioning the strap in a widened portion of the aperture (claim 20); (c) positioning a plurality of packages (claim 19); and (d) wherein the weight of the strip and packages with urge the strap to engage the engagement surface (claim 21).

*With respect to (a)*, Rowley '644 teaches the strip having a tab (with a strap and a head) and an aperture in the body portion of the strip as advanced above.

*Thus*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the strip of Fast '007 with a tab and aperture, as taught by Rowley '644 for increased securement and stability when the head is inserted into the aperture.

*With respect to (b)*, Rowley '644 teaches the strip as advanced above whereby the head is inserted through the aperture so that the width is oriented parallel to the longitudinal axis of the strip (see Figure 3) with the maximum transverse width of the head is greater than that of the aperture and then rotating the head such that the transverse width is generally perpendicular to the axis of the strip (see Figure 5) by positioning the strap in a widened portion of the aperture.

*Accordingly*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the strip of Fast '007 with the tab and aperture of Rowley '644 for ease in assembly and increased securement.

*With respect to (c)*, although Fast '007 shows only one package (16) being supporting therein, it would have been an obvious design choice to one of ordinary skill in the art at the time

Art Unit: 3634

the invention was made to have placed a plurality of products, such as multiple stacked elements 16, for ease in use to the consumer.

*With respect to (d)*, although the cited prior art does not explicitly state that the weight of the strip and packages urges the strap to engage the engagement surface, it would have been obvious to one of ordinary skill in the art at the time the invention was made that certain packages placed on the strip would cause this outcome thereby increasing securement of the strip.

Claims 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fast '007 in view of Rowley '644 as applied to claims 1-10, 12, and 19-21 above, and further in view of U.S. Patent No. 5,553,721 (Gebka '721).

The claims differ from the above references in requiring: (a) a plurality of fingers (claim 11) defined by first, second and third fingers defined by a generally W-shaped cut line (claim 13); and (b) a perforation line extending transversely across the strip (claim 14).

Gebka '721 teaches a merchandising strip comprising a plurality of W-shaped cut lines defining fingers therein for supporting packages thereby and perforated lines across the strips.

*With respect to (a)*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the strip of Fast '007 with a plurality of fingers, as taught by Gebka '721 for increased storage capabilities and capacity.

*With respect to (b)*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the strip of Fast '007 with a perforated line for ease in storage since the strip can be folded on the line thereby decreasing space needed for storage.


Art Unit: 3634

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer E. Novosad  
Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
August 25, 2004